

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDWARD EMMETT CORKER,

Plaintiff,

v.

Case No. 1:10-cv-1064 BB/WDS

**JOHN HARRIS, Deputy Warden, Valencia
County Detention Center,**

Defendant.

ORDER FOR MARTINEZ REPORT

THIS MATTER comes before the Court *sua sponte*. Plaintiff, who was incarcerated at the relevant times and is proceeding *pro se*, alleges that Defendant John Harris retaliated against him for “exercising his right to file a complaint.” [Doc. 11 at 2.]

Martinez report

The Court may order defendants in a case brought by a prisoner proceeding *pro se* to submit a special report (*Martinez* report) to investigate the incident or incidents that form the basis for the plaintiff’s lawsuit. *Martinez v. Aaron*, 570 F.3d 317, 320 (10th Cir. 1978). The Tenth Circuit has authorized the district court to require a *Martinez* report to develop a factual or legal basis for determining whether an inmate plaintiff has a meritorious claim. *See, e.g., Gee v. Estes*, 829 F.2d 1005, 1007 (10th Cir. 1987).

Accordingly, to aid the Court in evaluating Plaintiff’s claim of unlawful retaliation, Defendant shall prepare an additional *Martinez* report that includes the following matters:

1. All documentation relating to the alleged denial of Plaintiff’s December 28, 2010 request for a money order drawn from his account to satisfy his filing fee obligations for this case.

Defendant shall also provide an affidavit or sworn declaration stating the reason for the alleged denial.

2. All documentation relating to Plaintiff's alleged transfer from the "Honor Dorm" as alleged in his "Motion For Leave to Supplement Complaint and to Add a Party" [Doc. 11] and Exhibit E thereto. Defendant shall also provide an affidavit or sworn declaration stating the reason for the alleged transfer.

3. Documentation related to any grievances that Plaintiff filed in connection with the aforementioned incidents. Defendant should include a copy of the grievances and any administrative response or action taken.

4. The findings of any investigations conducted with regard to the allegations above;


5. Any defenses Defendant wishes to pursue including but not limited to immunity defenses, failure to exhaust, and statute of limitations; and

6. Any other items or matters pertinent to the allegations above.

Defendant's *Martinez* report shall address each point in numbered paragraphs. Documents in support of the report may be submitted simultaneously with the report, but the submission of documents alone, or documents submitted with an index but without an accompanying report, shall not be considered to be in compliance with this order. Defendant shall submit affidavits in support of the report if necessary.

The report shall be filed on or before April 23, 2012. Defendant shall serve a copy of the report and documentation on Plaintiff, who shall have twenty days from the date of service to respond. Motions for extensions of time shall be given due consideration. **The parties are hereby given notice that the report may be used in deciding whether to grant summary judgment on**

Plaintiff's claims; the parties should submit whatever materials they consider relevant to Plaintiff's claims. See *Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991).

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is positioned above a horizontal line.

**W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE**